

REMARKS

Reconsideration of this application is now being requested. Claims 1-14 and 16-23 are now in this application.

Claims 1-14 and 16-23 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, Examiner states that he “does not know what an encoder packet is.” Examiner goes further to state that the term encoder packet is not defined in the specification. Examiner assumes that the term describes a packet that is encoded. Examiner Applicant respectfully disagrees. The term encoder packet is defined in the specification at page 6, lines 8-10 as a “block of information intended for the receiver.” Therefore, it is felt that claims 1-14 and 16-23 satisfy under 35 U.S.C. §112, second paragraph.

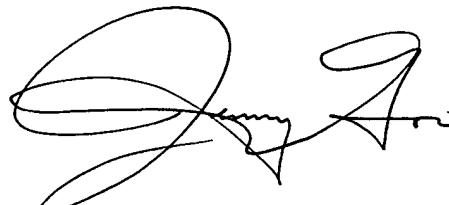
Claims 1-5, 14 and 16-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bruckman PN 2002/0051466 in view of Sayeed et al PN 5,828,677. Specifically, Examiner alleges that Sayeed et al teaches the common method of measuring channel conditions at the receiver and feeding that information back to the transmitter to adjust transmission characteristics, wherein measured channel conditions can be a rate indication message. Applicant respectfully disagrees. First, Sayeed et al does not teach measuring channel conditions. Sayeed et al teaches measuring a number of errors “n” at a receiver and then feeding back n to a transmitter so the transmitter may use a different error correcting RS code. See col. 6, lines 43-63. Measuring a number of errors correspond to a quality of service measurement, not a channel condition measurement, such as signal-to-interference ratio. Quality of service is not identical, although it may be related, to channel conditions. Second, claims 1-5, 14 and 16-23 all require that the encoder sub-packet have a first data transmission rate that “is different from and based on a data rate for transmitting the first encoder sub-packet indicated in a first rate indication message from a receiver.” Even if a number of errors n can be construed as a measured channel condition (and thus a rate indication message), Sayeed et al must disclose that the data will be transmitted at a data rate which is different from what the number of errors n is indicating to the transmitter. Sayeed et al does not teach transmitting its data at such a different data rate. Thus, Bruckman and Sayeed, alone or in combination, does not teach all the limitations of claims 1-5, 14 and 16-23, and it is felt that

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claims 1-5, 14 and 16-23 are patentable under 35 U.S.C. §103(a) over Bruckman in view of Sayeed et al.

Claims 6-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bruckman in view of Sayeed et al, and further in view of Bucholz PN 5,337,313. Applicant respectfully disagrees for the reasons discussed earlier. Accordingly, it is felt that claims 6-13 are patentable under 35 U.S.C. §103(a) over Bruckman in view of Sayeed et al, and in further view of Bucholz.

Respectfully submitted,
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